

Application No. 10/566,047

Amendment Dated: September 23, 2009

Reply to Office Action of May 27, 2009

REMARKS

By submission of the Request for Continued Examination (RCE) concurrently filed herewith, it is understood that the Amendment after Final Rejection filed July 24, 2009 will be considered and entered into the record of this application. No further amendments to the claims previously submitted are made in the present response.

Claims 13-20 have been rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement. In the response filed July 24, 2009, applicant has revised Fig. 3 to eliminate the "deformable portion" and reference numeral 44, and has also revised the specification to delete all instances of reference numeral 44. In responding to the Examiner's direction in the Office Action of July 2, 2008 "that the drawings must show every feature of the invention specified in the claims", a new replacement drawing for Fig. 3 previously included a showing of the flexibly resilient metal strip 43 as claimed. The Examiner contends that the amendment to the drawing raises a new matter issue and has maintained this holding in the Advisory Action of July 31, 2009.

In the Office Action of May 27, 2009, the Examiner acknowledges that a strip of material is supported at 41 and 45 (actually 42) which is disclosed in the original written description and drawings. Applicant respectfully submits that the amended drawing of Fig. 3 was merely conformed to the original specification as directed by the Examiner, and that the strip of metal is described in sufficient detail in the specification to provide the required support without creating any new matter.

In this respect, it is noted that the metal strip is in fact referred to in the specification as being a feature of the prior art as set forth on page 2, lines 13-23 and page 5, lines 13-19. As such, it is submitted that support for the representation of the metal strip comes not only from the explicit disclosure in the specification as filed, but also from the implicit incorporation of prior art devices which would be known to one skilled in the art. That is, one skilled in the art at the time the invention was made would understand from the specification that the metal strip was known

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from prior art devices (such as e.g. US Patent No. 3,902,272, which shows a flexible metal strip used in animal training devices) and would interpret this feature accordingly. The manner in which the metal strip is shown in the amended drawing of Fig. 3 does not sufficiently differ from the prior art devices in any material way, and is believed to be in conformity with the specification.

Based on the above arguments, it is believed that no new matter is present and that the inclusion of the metal strip in amended Fig. 3 is clearly supported in the original specification.

As there are currently no other rejections of record, the Examiner is respectfully requested to withdraw the rejection under 35 USC §112 and pass this application to issue with claims 13-20 being deemed allowable.

A sincere effort has been made to place this application into condition for allowance and such action is earnestly requested.

Respectfully submitted,

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